

MEMORANDUM

Agenda Item No. 4(E)

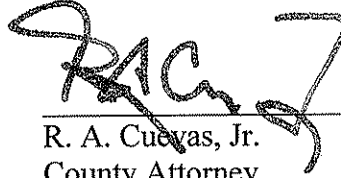
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: December 19, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance creating disclosure
requirement for sale of real
property zoned or otherwise
approved for residential use
within certain proximity to a
permitted rock mining activity
where blasting is permitted;
establishing penalties

The accompanying ordinance was prepared and placed on the agenda at the request of Prime
Sponsor Commissioner Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

RAC/jls



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: December 19, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 4(E)

Please note any items checked.

- _____ "3-Day Rule" for committees applicable if raised
- _____ 6 weeks required between first reading and public hearing
- _____ 4 weeks notification to municipal officials required prior to public hearing
- _____ Decreases revenues or increases expenditures without balancing budget
- _____ Budget required
- _____ Statement of fiscal impact required
- _____ Ordinance creating a new board requires detailed County Manager's report for public hearing
- _____ No committee review
- _____ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- _____ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(E)
12-19-11

ORDINANCE NO. _____

ORDINANCE CREATING DISCLOSURE REQUIREMENT
FOR SALE OF REAL PROPERTY ZONED OR OTHERWISE
APPROVED FOR RESIDENTIAL USE WITHIN CERTAIN
PROXIMITY TO A PERMITTED ROCK MINING ACTIVITY
WHERE BLASTING IS PERMITTED; ESTABLISHING
PENALTIES; PROVIDING DEFINITIONS, SEVERABILITY,
INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 13-19 of the Code of Miami-Dade County, Florida, is hereby
amended to read as follows:^{1\}

**Sec. 13-19. Notice to purchasers of residential property of rock mining operations
where blasting is permitted.**

(a) Any person constructing a residential structure located within two (2) miles of a permitted rock mining operation where blasting is permitted shall, prior to the issuance of the first development permit, record in the public records a notice that the proposed development is located within two (2) miles of a blasting site. The notice shall provide the location of the blasting site [~~and that such blasting is regulated by Chapter 13 of the Code of Miami-Dade County~~]. Notice shall be given to and signed by buyers contemporaneous with signing purchase contracts within said developments.

>>(b) Any person offering for sale any existing residential structure located within two (2) miles of a permitted rock mining operation where blasting is permitted shall provide to the prospective seller a notice that the subject residential structure is located within two (2) miles of a blasting site. The notice shall provide the location of the blasting site. The required notice shall be set forth on a separate sheet of paper and shall be signed by the prospective purchaser prior to or contemporaneous with the execution of any other instrument committing the purchaser to acquire title or any other interest in such real property, whether created by deed, contract, mortgage, easement, covenant, or other.<<

1 Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

~~[[b]]>>c<<~~ The Director of the Miami-Dade County >>Department of<< Public Works >>and Waste Management<< ~~[[Department]]~~ and the Director of the Miami-Dade County Department of >>Permitting, Environment, and Regulatory Affairs<<~~[[Planning and Zoning]]~~ shall maintain detailed maps of all permitted rock mining operations where blasting is permitted within Miami-Dade County. Any developer may request a written opinion from the Director of Public Works and >>and Waste Management<< as to whether his or her development is located within the two-mile area.

~~[[e]]>>d<<~~ The Directors of the Miami-Dade County >>Departments of<< Public Works >>and Waste Management<< ~~[[Department and Miami Dade County Department of Planning and Zoning]]~~ >>and Permitting, Environment, and Regulatory Affairs,<< shall provide adequate notice of this section with the official application forms for development permits.

>>(e) Any seller who fails to comply with the notice provisions of this section shall be subject to the penalties, civil liability, attorneys fees and enforcement proceeding set forth in Section 8CC of the Code of Miami-Dade County, and to such other proceeding as may be provided by law. Miami-Dade County shall not be held liable for any damages or claims resulting from the seller's failure to comply with the provisions of this section.<<

Section 2. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 8CC-10. *Schedule of civil penalties*

| * | * | * |
|---------------------|---|----------------------|
| <u>Code Section</u> | <u>Description of Violation</u> | <u>Civil Penalty</u> |
| >> <u>13-19(b)</u> | Failure to provide rock mining disclosure statement | 500.00 |
| * | * | * |

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may

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be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

John McInnis

Prime Sponsor: Commissioner Rebeca Sosa

RAC
JM

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